

108TH CONGRESS
2D SESSION

S. RES. 473

Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the Presidential run-off election on November 21, 2004.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2004

Mr. MCCAIN (for himself, Mr. LUGAR, Mr. SMITH, Mr. LIEBERMAN, Mr. GRAHAM of South Carolina, Mr. HAGEL, and Mr. BIDEN) submitted the following resolution; which was considered and agreed to

RESOLUTION

Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the Presidential run-off election on November 21, 2004.

Whereas the establishment of a democratic, transparent, and fair election process for the 2004 Presidential election in Ukraine and of a genuinely democratic political system are prerequisites for that country's full integration into the Western community of nations as an equal member, including into organizations such as the North Atlantic Treaty Organization (NATO);

Whereas the Government of Ukraine has accepted numerous specific commitments governing the conduct of elections as a participating state of the Organization for Security

and Cooperation in Europe (OSCE), including provisions of the Copenhagen Document;

Whereas the election of Ukraine's next President will provide an unambiguous test of the extent of the Ukrainian authorities commitment to implement these standards and build a democratic society based on free elections and the rule of law;

Whereas the second round of the Presidential election takes place against the backdrop of past elections and improprieties in the first round of the election, which did not fully meet international standards;

Whereas it is the duty of government and public authorities of Ukraine at all levels to act in a manner consistent with all laws and regulations governing election procedures, and to ensure free and fair elections throughout the entire country, including preventing activities aimed at undermining the free exercise of political rights;

Whereas a genuinely free and fair election requires a period of political campaigning conducted in an environment in which administrative action, violence, intimidation, or detention do not hinder the parties, political associations, and the candidates from presenting their views and qualifications to the citizenry, including organizing supporters, conducting public meetings and events throughout the country, and enjoying unimpeded access to television, radio, print, and Internet media on a non-discriminatory basis;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and effective opportunity to exercise their civil and political rights, including the right to vote and the right to seek and acquire information

upon which to make an informed vote, free from intimidation, undue influence, attempts at vote buying, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties;

Whereas a genuinely free and fair election requires the full transparency of laws and regulations governing elections, multiparty representation on election commissions, and unobstructed access by candidates, political parties, and domestic and international observers to all election procedures, including voting and vote counting in all areas of the country;

Whereas increasing control and manipulation of the media by national and local officials and others acting at their behest raise grave concerns regarding the commitment of the Ukrainian authorities to free and fair elections;

Whereas efforts by the national authorities in Ukraine to limit access to international broadcasting, including Radio Liberty and the Voice of America, represent an unacceptable infringement on the right of the Ukrainian people to independent information;

Whereas efforts by national and local officials of Ukraine and others acting at their behest to impose obstacles to free assembly, free speech, and a free and fair political campaign have taken place in Donetsk, Sumy, and elsewhere in Ukraine without condemnation or remedial action by the Government of Ukraine;

Whereas numerous substantial irregularities have taken place in recent Ukrainian parliamentary by-elections in the Donetsk region and in mayoral elections in Mukacheve, Romny, and Krasniy Luch;

Whereas intimidation, violence, and fraud during the April 18, 2004, mayoral election in Mukacheve, Ukraine, represent a deliberate attack on the democratic process;

Whereas in the period leading to the first round of the Presidential election, the government power structures used state resources such as schools, state factories, hospitals, and public transport systems to force students, state workers, and citizens who rely on state services for their livelihood to campaign against their will for the government-backed candidate;

Whereas there was notable partisan engagement of security services, military, and local police in support of the government-backed candidate;

Whereas there was a failure of national and local state-owned and private electronic media to provide impartial and fair coverage of, or access to, opposition candidates;

Whereas some election commission members affiliated with opposition candidates were dismissed from their duties just prior to election day;

Whereas there was collaboration with a foreign government to allow a foreign President to appear in Ukraine and express his opinions on one of the candidates just days before election day, in an effort to influence the vote, and a military parade, which was held in Kyiv 3 days prior to the election, was clearly an effort to intimidate voters; and

Whereas in the first round of the Presidential election in Ukraine that occurred on October 31, 2004, international observers noted fraud and other significant problems, including poorly maintained voter lists, which resulted in people being denied their right to vote, as well as many additional names on voter rolls for which no accounting could be made, prevalent interference by unauthorized persons into the electoral process, and credible reports of busing of voters among oblasts and polling stations for the purpose of multiple voting: Now, therefore, be it

1 *Resolved, That the Senate—*

2 (1) acknowledges and welcomes the strong rela-
3 tionship formed between the United States and
4 Ukraine since the restoration of Ukraine's independ-
5 ence in 1991;

6 (2) recognizes that a precondition for the full
7 integration of Ukraine into the Western community
8 of nations, including as an equal member in institu-
9 tions such as the North Atlantic Treaty Organiza-
10 tion (NATO), is its establishment of a genuinely
11 democratic political system;

12 (3) expresses its strong and continuing support
13 for the efforts of the Ukrainian people to establish
14 a full democracy, the rule of law, and respect for
15 human rights in Ukraine;

16 (4) urges the Government of Ukraine to guar-
17 antee freedom of association and assembly, including
18 the right of candidates, members of political parties,

1 and others to freely assemble, to organize and con-
2 duct public events, and to exercise these and other
3 rights free from intimidation or harassment by local
4 or national officials or others acting at their behest;

5 (5) urges the Government of Ukraine to meet
6 its Organization for Security and Cooperation in Eu-
7 rope (OSCE) commitments on democratic elections
8 and to address issues previously identified by the Of-
9 fice of Democratic Institutions and Human Rights
10 (ODIHR) of the OSCE in its final reports on the
11 2002 parliamentary elections and the 1999 Presi-
12 dential elections, such as illegal interference by pub-
13 lic authorities in the campaign and a high degree of
14 bias in the media;

15 (6) urges the Ukrainian authorities to ensure—

16 (A) the full transparency of election proce-
17 dures before, during, and after the second
18 round of the 2004 Presidential election;

19 (B) free access for Ukrainian and inter-
20 national election observers;

21 (C) multiparty representation on all elec-
22 tion commissions;

23 (D) unimpeded access by all parties and
24 candidates to print, radio, television, and Inter-
25 net media on a non-discriminatory basis;

1 (E) freedom of candidates, members of op-
2 position parties, and independent media organi-
3 zations from intimidation or harassment by
4 government officials at all levels, including se-
5 lective tax audits and other regulatory proce-
6 dures, and in the case of media, license revoca-
7 tions, and libel suits;

8 (F) a transparent process for complaint
9 and appeals through electoral commissions and
10 within the court system that provides timely
11 and effective remedies;

12 (G) vigorous prosecution of any individual
13 or organization responsible for violations of
14 election laws or regulations, including the appli-
15 cation of appropriate administrative or criminal
16 penalties;

17 (H) remedies to all improprieties reported
18 in the first round of the Presidential election in
19 Ukraine, including—

20 (i) the replacement at a polling sta-
21 tion of any Territorial Election Commis-
22 sion member found to have engaged in
23 fraud;

1 (ii) a complete review of voter lists in
2 each polling station in order to correct in-
3 accuracies;

4 (iii) equal time on state media and
5 equal access to private media for the two
6 runoff candidates; and

7 (iv) immediate prosecution of individ-
8 uals who have violated the election law;

9 (7) further calls upon the Government of
10 Ukraine to guarantee election monitors from the
11 ODIHR, other participating states of the OSCE,
12 Ukrainian political parties, representatives of can-
13 didates, nongovernmental organizations, and other
14 private institutions and organizations, both foreign
15 and domestic, unobstructed access to all aspects of
16 the election process, including unimpeded access to
17 public campaign events, candidates, news media, vot-
18 ing, and post-election tabulation of results and proc-
19 essing of election challenges and complaints;

20 (8) urges the President to fully employ the dip-
21 lomatic and other resources of the Government of
22 the United States to encourage the Government of
23 Ukraine to ensure that the election laws and proce-
24 dures of Ukraine are faithfully adhered to by all
25 local and national officials, by others acting at their

1 behest, and by all candidates and parties, during
2 and subsequent to the Presidential campaign and
3 election-day voting;

4 (9) strongly encourages the President to clearly
5 communicate to the Government of Ukraine, to all
6 parties and candidates in Ukraine, and to the people
7 of Ukraine the high importance attached by the Gov-
8 ernment of the United States to this Presidential
9 campaign as a central factor in determining the fu-
10 ture relationship between the two countries;

11 (10) strongly encourages the President to con-
12 sider visa bans and other targeted sanctions on
13 those responsible for encouraging or participating in
14 any efforts to improperly influence the outcome of
15 the election, whether through direct or indirect in-
16 volvement; and

17 (11) pledges its enduring support and assist-
18 ance to the people of Ukraine for the establishment
19 of a fully free and open democratic system, the cre-
20 ation of a prosperous free market economy, the es-
21 tablishment of a secure independence and freedom
22 from coercion, and Ukraine's assumption of its
23 rightful place as a full and equal member of the
24 Western community of democracies.

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